

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3545 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

TUTARAM KATTHU PATIL

Versus

D.S.P. VADODARA, AND ORS.

Appearance:

MR HARDIK RAVAL for Petitioner

MR NIGAM SHUKLA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/08/96

ORAL JUDGMENT

Heard learned counsel for the parties. The petitioner was appointed as an Armed Police Constable at Baroda Head Quarters. He joined the police service on 15.1.68. In contemplation of the departmental inquiry, the petitioner was placed under suspension under the order dated 5th April 1975 of the District Superintendent of Police, Baroda City. The departmental inquiry was

held against him in which he was found guilty of charges. Under the order dated 20th May 1976, the petitioner was ordered to be dismissed from the services. The petitioner preferred a departmental first appeal against the order of dismissal which has been dismissed on the ground of delay. He preferred revision application before I.G.P., Gujarat State and the same has also been dismissed. Thereafter the petitioner preferred second revision application before the Government and that has been decided on merits but no case has been found by the authorities in favour of the petitioner. Hence the same has also been dismissed. Hence this Special Civil Application before this Court by the petitioner.

2. The only contention made by Shri Hardik Raval, learned counsel for the petitioner is that the penalty of dismissal which has been given to the petitioner is harsh, excessive and disproportionate to the guilt. The petitioner has a longer service and as such in case he was found guilty of the charges, then at the most he could have been ordered to be compulsorily retired from the services so that he could have got some benefits of pension etc.

3. On the other hand, Shri Nigam Shukla, learned counsel for the respondents, relying on the decision of Supreme Court, in the case of State Bank of India & Anr. v. Samendrakumar, reported in JT 1994(1) SC 217, and another decision of Supreme Court in the case of B.C. Chaturvedi v. Union of India, reported in JT 1995(5) SC 65, contended that what punishment to be given to the delinquent employee on the proved misconduct, is exclusively in the discretion of disciplinary authority and the appellate authority and this Court has no power of judicial review in the matter. He further contended that only in rarest of rare cases, where this Court finds that the penalty which has been given to delinquent employee is shocking to the judicial conscience, this Court may go on the question of quantum of punishment to be given and not otherwise. Shri Nigam Shukla further contended that the charges against the petitioner are very very serious in nature and as such, the penalty of dismissal which has been given to him on the basis of charges proved against him cannot be said to be excessive, harsh or disproportionate to guilt.

4. I have given my thoughtful considerations to the submissions made by the learned counsel for the parties and I find sufficient merits in the contention of the learned counsel for the respondents that there are very grave and serious charges against the petitioner. Kum.

Meenakshi was also an employee of police department and even the petitioner has not left free his own departments employee to take illegal gratification. The disciplinary authority has considered the matter in detail. The show cause notice was given and the reply has also been considered. From the order which has been passed by disciplinary authority, I am satisfied that each and every point which has been raised by the petitioner has been considered. The petitioner has come up with defence of alibi. That aspect has also been considered and on the basis of evidence which has been produced on record that plea has not been accepted. The petitioner has been given sufficient opportunity of producing witness in defence also but those witnesses were not found worthy putting any reliance on them. The disciplinary authority has taken into consideration the fact that there is nothing brought on record that the witness which have been produced from the side of prosecution have any enmity with the petitioner. The disciplinary authority has considered all the points raised by the petitioner but did not find it to be a case where any lenient view is called for. After going through the charges and the orders passed by the disciplinary authority, appellate authority and revisional authority, I am satisfied that it is not a case where interference of this Court is called for in the penalty which has been given to the petitioner.

5. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)